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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,857	12/22/2003	Randolf Von Oepen	17601.41a.1.1.1.3	9100
57360 7590 05/27/2009 WORKMAN NYDEGGER 1000 EAGLE GATE TOWER, 60 EAST SOUTH TEMPLE SALT LAKE CITY, UT 84111				
EXAMINER				
BUL VY Q				
ART UNIT		PAPER NUMBER		
3773				
MAIL DATE		DELIVERY MODE		
05/27/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/743,857

Applicant(s)

VON OEPEN ET AL.

Examiner

Vy Q. Bui

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-39 and 41-77 is/are pending in the application.
- 4a) Of the above claim(s) 40, 54 and 78-112 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-39, 41-53 and 55-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date 3/17/09: 4/8/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

This application contains claims 40, 54, 78-112 drawn to an invention nonelected with traverse in the reply filed on 11/16/2007.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 64 and 66-75 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Trapp-5,861,027.

As to claims 64, 66-75, Trapp-'027's Fig. 4, for example, discloses self-expanding stents of nitinol and balloon expanding stents of stainless steel or titanium (col. 8, lines 51-56), and a stent structure including webs defining web patterns, bends interconnecting at the mid-sections of two S-shaped arcuate webs, H-shaped connection elements connecting two web patterns substantially as recited in the claims as indicated on next page. Notice that Trapp-'027 (col. 8, lines 16-21) discloses a coating comprising a nylon, a polyethylene, for example, as a therapeutic agent for a treatment purpose.

Alternatively, it is well known in the art to provide a coating of a therapeutic agent, such as a heparin, on a Trapp-'027 stent for treatment a blood vessel.

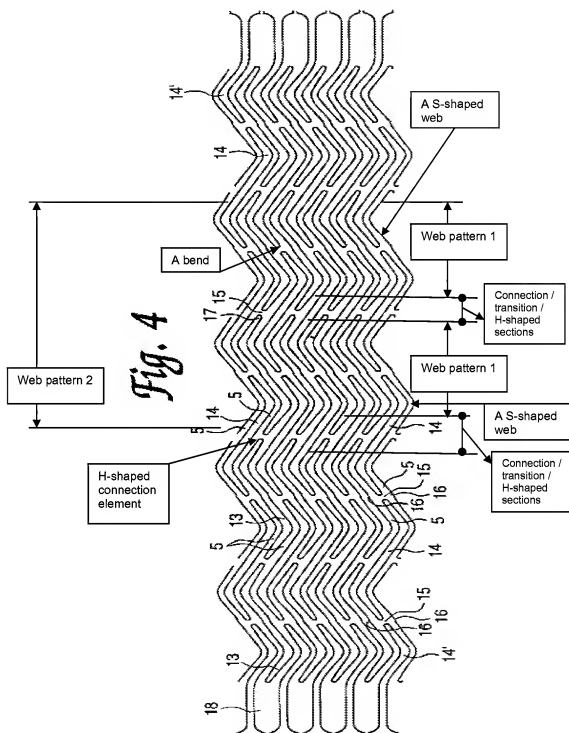
Please note the following:

As to independent claim 64, S-shaped openings of Trapp-'027's Fig. 4 are considered as intercommunicating because they all are in the same cylindrical surface of the stent.

As to claim 70, Trapp-'027's Fig. 4 shows three arcuate webs defining at least one S-shaped structure.

As to claim 75, a stainless steel or nitinol stent is radio opaque at some degree.

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2. Claims 36-38, 42-52, 56-63 and 76-77 are rejected under 35 U.S.C. 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ballou et al-6,071,308.

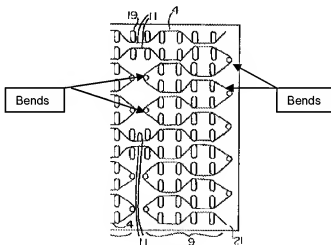
As to 36-38, 42-43, 45-48, 50-52, 56-57, 59-63 and 76-77, Ballou-'308's Fig. 1-2 discloses self-expanding stents of nitinol; and balloon expanding stents of stainless steel or tantalum (C 3, L 27-57, for example), and a stent structure including webs defining web patterns 9, bends interconnecting webs, transition sections 11 substantially as recited in the claims. Note that Ballou-'308 (C 3, L 19-26) discloses a polymeric coating/sleeve comprising a PET, a PTFE, or a polyester including a drug for a treatment purpose.

Alternatively, it is well known in the art to provide a coating of a therapeutic agent, such as a heparin, on a Ballou-'308 stent for treatment a blood vessel.

As to claims 44, 58, Ballou-'308 Fig. 1 shows three arcuate webs define at least one S-shaped structure.

As to claim 49, a stainless steel or nitinol or especially a tantalum stent is radio opaque.

As to claim 76, for example, recite the limitation "offset". If two 3-D elements are not aligned, they meet the limitation "offset".



Ballou-'308's Partial F. 2

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trapp-, 5,861,027 in view of Zhong-6,231,600.

As to claim 65, Trapp-'027 discloses a coating of nylon or polyethylene as a therapeutic agent (for a treatment purpose) and does not disclose an agent that retards thrombus formation. However, coating a stent with an agent that retards thrombus formation is well known in the art. For example, Zhong-6,231,600 (abstract; lines 9-10) discloses a coating of heparin to inhibit clot formation. It would have been obvious to one of ordinary skill in the art to provide a heparin for a Trapp-'027 stent to prevent restenosis.

2. Claims 37, 51 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballou et al-6,071,308 in view of Zhong-6,231,600.

As to claims 37, 51 and 77, Ballou et al-6,071,308 discloses a coating/sleeve comprising a PET, a PTFE, or a polyester including a drug for a treatment purpose and does not explicitly disclose an agent that retards thrombus formation. However, coating a stent with an agent that retards thrombus formation is well known in the art. For example, Zhong-6,231,600 (abstract; lines 9-10) discloses a coating of heparin to inhibit clot formation. It would have been obvious to one of ordinary skill in the art to provide a heparin for a Ballou-'308 stent to prevent restenosis.

3. Claims 39, 41, 53, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ballou et al-6,071,308 in view of Becker-6,117,165.

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As to claims 39, 41, 53, 55, Ballou-'308 discloses substantially the present invention, except for H-shaped transitions angled to the longitudinal axis of the stent. However, Becker-'165 (F. 6) discloses H-shaped transitions angled to the longitudinal axis of the stent as a proper transition sections for a stent. It would have been obvious to one of ordinary skill in the art to modify Ballou-'308 transition sections 11 to be H-shaped transitions angled to the longitudinal axis of the stent as taught by Becker-'165 (F. 6), as this configuration is a proper design for a stent.

Response to Amendment

The amendment filed on 9/12/2008 under 37 CFR 1.131 has further defined the present invention over Trapp-, 5,861,027.

However, claims 64-75 are rejected as indicated above because the claimed invention is not clearly distinguishable over Trap-'027 reference.

Claims 36-63 and 75-76 are rejected with new ground of rejection as indicated above.

Response to Arguments

Applicant's arguments with respect to the amended claims of the present invention have been considered but are moot in view of the above ground(s) of rejection.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/
Primary Examiner, Art Unit 3773